

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF AMENDMENT
37.86.702, 37.86.805, 37.86.1001,	)	
37.86.1004, 37.86.1005, 37.86.1006,	)	
37.86.1105, 37.86.1506, 37.86.1807,	)	
37.86.2105, 37.86.2205, 37.86.2207,	)	
37.86.2402, 37.86.2405, 37.86.2505,	)	
and 37.86.2605 pertaining to audiology	)	
services, dental, outpatient drug	)	
services, home infusion therapy,	)	
durable medical equipment and	)	
medical supplies, optometric services,	)	
EPSDT, transportation, and ambulance	)	
services	)	

TO: All Interested Persons

1. On September 20, 2007, the Department of Public Health and Human Services published MAR Notice No. 37-412 pertaining to the public hearing on the proposed amendment of the above-stated rules, at page 1400 of the 2007 Montana Administrative Register, issue number 18.

2. The department has amended ARM 37.86.702, 37.86.805, 37.86.1001, 37.86.1004, 37.86.1005, 37.86.1006, 37.86.1105, 37.86.1506, 37.86.1807, 37.86.2105, 37.86.2205, 37.86.2207, 37.86.2402, 37.86.2405, 37.86.2505, and 37.86.2605 as proposed.

3. The department has thoroughly considered all commentary received. The comments received and the department's response to each follow:

COMMENT #1: The sixteen cent increase in dispensing fees for pharmacies is welcome but is insufficient to adequately reimburse pharmacies, especially in light of the impending changes to drug reimbursement mandated by the Deficit Reduction Act.

RESPONSE: The department appreciates the support for the current dispensing fee increase. This increase was legislatively approved in House Bill 2. Further modifications of the pharmacy dispensing fee specifically related to the Deficit Reduction Act and cost to dispense findings are being addressed in MAR Notice Number 37-417 pertaining to Medicaid reimbursement for dispensing fees and outpatient compound prescriptions published at page 1611 on October 25, 2007 in the Montana Administrative Register, issue number 20.

COMMENT #2: Legislative Counsel commented that one of the two statutes cited

Montana Administrative Register 37-412

as implementing authority, 53-6-141, MCA, is a repealed statute.

RESPONSE: Legislative Counsel is correct. The cite to 53-6-141, MCA, was an error. The correct implementation cites, which were also included in the notice, are 53-2-201, 53-6-101, 53-6-111, or 53-6-113. All citations in the published history of a rule must appear in the notice, including the repealed cite. Underlining a citation indicates it is being relied upon as the authority to implement the proposed rule changes. It should not have been underlined.

4. The department intends to apply the amendments to ARM 37.86.805, 37.86.1004, 37.86.1005, 37.86.1506, 37.86.1807, 37.86.2207(9), and 37.86.2605 retroactively to October 1, 2007.

The department intends to apply the amendments to ARM 37.86.1006, 37.86.2105, 37.86.2205, and 37.86.2207(2) retroactively to July 1, 2007.

The department intends to apply the amendments to ARM 37.86.2405 and 37.86.2505 retroactively to November 1, 2006.

No detrimental effects are anticipated as a result.

/s/ Geralyn Driscoll  
Rule Reviewer

/s/ John Chappuis for  
Director, Public Health and  
Human Services

Certified to the Secretary of State October 29, 2007.